



Education and Skills Act 2008

2008 CHAPTER 25

PART 4

REGULATION AND INSPECTION OF INDEPENDENT EDUCATIONAL PROVISION IN ENGLAND

CHAPTER 1

INDEPENDENT EDUCATIONAL INSTITUTIONS IN ENGLAND

Appeals

124 Appeal by proprietor against decision of Secretary of State to deregister

- (1) The proprietor of a registered independent educational institution may appeal to the Tribunal against a decision of the Secretary of State to remove the institution from the register—
 - (a) under section 100 (no longer required to register),
 - (b) under section 105 (unapproved material change),
 - (c) under section 112 (failure to pay fees),
 - (d) under section 116 (failure to meet standards),
 - (e) under section 119 (unsuitable persons), or
 - (f) by virtue of section 123 (failure to provide information).
- (2) Any appeal under this section must be brought within the period of 28 days beginning with the day on which notice of the decision is served on the proprietor.
- (3) On an appeal under this section the Tribunal may—
 - (a) confirm the decision,
 - (b) direct that the decision is of no effect, or
 - (c) in the case of an appeal under subsection (1)(b), (d) or (e), direct that the decision is of no effect and make an order imposing a relevant restriction on the proprietor of the institution.

- (4) Where the Tribunal confirms the decision, the Secretary of State must remove the institution from the register on such date as the Tribunal may specify or, if it does not specify a date, from such date as the Secretary of State may determine.
- (5) In this Chapter “the Tribunal” means the First-tier Tribunal.

125 Appeal by proprietor against other decisions of Secretary of State

- (1) The proprietor of an institution may appeal to the Tribunal against a decision of the Secretary of State in relation to the institution under—
 - (a) section 99(2) (standards not likely to be met on registration),
 - (b) section 104(1) (refusal to approve a material change),
 - (c) section 116(1)(a) (imposition of relevant restriction on proprietor), or
 - (d) section 118(5)(b) (refusal to vary or revoke a relevant restriction).
- (2) Any appeal under this section must be brought within the period of 28 days beginning with the day on which notice of the decision is served on the proprietor.
- (3) On an appeal under subsection (1)(a), the Tribunal may—
 - (a) confirm the decision, or
 - (b) require the Secretary of State to reconsider the decision, taking into account, amongst other things, the findings of the Tribunal on the appeal.
- (4) Section 99(3) and (4) applies in relation to the Secretary of State’s decision on reconsideration under subsection (3)(b) above as it applies to a decision made under section 99(2).
- (5) On an appeal under subsection (1)(b) the Tribunal may—
 - (a) confirm the decision, or
 - (b) itself approve the change.
- (6) On an appeal under subsection (1)(c), the Tribunal may—
 - (a) confirm the decision,
 - (b) direct that the relevant restriction is to cease to have effect, or
 - (c) direct that the relevant restriction is to cease to have effect and make an order imposing a different relevant restriction on the proprietor.
- (7) On an appeal under subsection (1)(d), the Tribunal may—
 - (a) confirm the refusal, or
 - (b) if the Tribunal is satisfied that it is appropriate to do so because of a change of circumstance since the restriction in question was imposed—
 - (i) direct that the relevant restriction is to cease to have effect, or
 - (ii) direct that the relevant restriction is to cease to have effect and make an order imposing a different relevant restriction on the proprietor.

126 Appeal by proprietor against order of justice of the peace

- (1) The proprietor of a registered independent educational institution may appeal to the Tribunal against the making of an order under section 120 (order of justice of the peace in an emergency).
- (2) On an appeal under this section the Tribunal may—

- (a) confirm the making of the order,
 - (b) direct that the order is to cease to have effect, or
 - (c) direct that the order is to cease to have effect and make an order—
 - (i) imposing a relevant restriction on the proprietor of the institution, or
 - (ii) requiring the Secretary of State to remove the institution from the register on such date as the Tribunal may specify or, if it does not specify a date, from such date as the Secretary of State may determine.
- (3) Subsection (4) applies where—
- (a) an appeal is brought under this section against an order that the institution be removed from the register, and
 - (b) the Tribunal directs that the order is to cease to have effect.
- (4) The institution—
- (a) must be restored to the register by the Secretary of State, and
 - (b) is to be treated as if it had not been removed from the register in pursuance of the order.

127 Relevant restriction imposed by Tribunal: supplementary

- (1) This section applies where the Tribunal makes an order under section 124, 125 or 126 imposing a relevant restriction on the proprietor of an institution.
- (2) The order in question has effect from the time the proprietor receives notice of it in accordance with Tribunal Procedure Rules or from the Secretary of State.
- (3) If the proprietor fails to comply with the relevant restriction, the proprietor is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 5 on the standard scale (or to both).
- (4) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44), for “51 weeks” in subsection (3) substitute “six months”.
- (5) The proprietor may apply to the Tribunal for the relevant restriction to be varied or revoked.
- (6) On an application under subsection (5) the Tribunal must—
 - (a) vary or revoke the relevant restriction as requested in the application, if the Tribunal is satisfied that it is appropriate to do so because of any change of circumstance, and
 - (b) in any other case, refuse to do so.